

CONGRESSIONAL RECORD SUMMARY

Thursday, November 14, 2002

Part I

*Incomplete Record of Senate and House proceedings.
Today's proceedings will be continued in the next issue of the Record.*

SENATE

Measures Reported:

S. 2480, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns, with amendments.

S. 2541, to amend title 18, United States Code, to establish penalties for aggravated identity theft.
Page D 1148, (See next issue)

S. 1742 - Restore Your Identity Act:

Senate passed S. 1742, to prevent the crime of identity theft, and mitigate the harm to individuals victimized by identity theft, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto:

Page D 1148, (See next issue)

Reid (for Cantwell) Amendment No. 4954, in the nature of a substitute.

Page D 1148, (See next issue)

S.J. Res. 53 - Relative to 108th Congress:

Senate agreed to S.J. Res. 53, relative to the convening of the first session of the One Hundred Eighth Congress.

Page D 1148, (See next issue)

H.R. 5005 - Homeland Security Act:

Senate continued consideration of H.R. 5005, to establish the Department of Homeland Security, taking action on the following amendments proposed thereto:

Pages S 11002-30, D 1150, (Continued next issue)

"...In addition, out of the blue, if I may phrase it that way, this substitute includes a provision that had not been seen in any previous proposals regarding homeland security, and that would take complaints about vaccine additives out of the courts and require them to be made through the Federal Vaccine Injury Compensation Program. That would affect potential claims involving the mercury-based preservative thimerosal. Because there are a number of class action lawsuits pending on this issue, this is a highly controversial and complicated issue, one that the relevant committee of the Senate, which has been working on it, the HELP Committee, has not been able to come to a consensus on after several months of deliberation..." (Lieberman, page S 11004)

Withdrawn:

Durbin Amendment No. 4906 (to Amendment No. 4902), to provide for the development of a comprehensive enterprise architecture for information systems to achieve interoperability within and between agencies with responsibility for homeland security.

Pages S 11011-21, D 1150

H.R. 5005 - Homeland Security Act (Cont.):

Pending:

Thompson (for Gramm) Amendment No. 4901, in the nature of a substitute.

Pages S 22003-40, D 1150, (Continued next issue)

Lieberman/McCain Amendment No. 4902 (to Amendment No. 4901), to establish within the legislative branch the National Commission on Terrorist Attacks Upon the United States.

Page S 11002, D 1150, (Continued next issue)

Senate will continue consideration of the bill on Friday, November 15, 2002, with a vote to invoke cloture on Thompson (for Gramm) Amendment No. 4901, listed above.

Page D 1150

S. 1214 - Port and Maritime Security Act--Conference Report:

By a unanimous vote of 95 yeas (Vote 243), Senate agreed to the conference report on S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports.

"... Both the Hart-Rudman Report on Homeland Security and the Interagency Commission on Crime and Seaport Security found our seaports to be vulnerable to crime and terrorism. While there is no way to make our Nation's seaports completely crime free and impenetrable to terrorist attacks, this conference report will undoubtedly advance port security and help strengthen overall national security. The report by the Interagency Commission on Crime and Seaport Security, also known as the Graham Commission, in recognition of Senator Graham's efforts to establish such a commission, was a catalyst 2 years ago for the Commerce Committee's initial efforts to address crime and security issues at our Nation's seaports..."
(McCain, page S 10978)

Pages S 10974-93, D 1150

Nominations Confirmed:

Senate confirmed the following nominations:

John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

Stanely R. Chesler, of New Jersey, to be United States District Judge for the District of New Jersey.

William J. Martini, of New Jersey, to be United States District Judge for the District of New Jersey.

Ronald B. Leighton, of Washington, to be United States District Judge for the Western District of Washington.

Daniel L. Hovland, of North Dakota, to be United States District Judge for the District of North Dakota.

Thomas W. Phillips, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Linda R. Reade, of Iowa, to be United States District Judge for the Northern District of Iowa.

Alia M. Ludlum, of Texas, to be United States District Judge for the Western District of Texas.

Robert G. Klausner, of California, to be United States District Judge for the Central District of California.

James E. Kinkeade, of Texas, to be United States District Judge for the Northern District of Texas.

William E. Smith, of Rhode Island, to be United States District Judge for the District of Rhode Island.

Jeffrey S. White, of California, to be United States District Judge for the Northern District of California.

Kent A. Jordan, of Delaware, to be United States District Judge for the District of Delaware.

Mark E. Fuller, of Alabama, to be United States District Judge for the Middle District of Alabama.

Rosemary M. Collyer, of Maryland, to be United States District Judge for the District of Columbia.

Robert B. Kugler, of New Jersey, to be United States District Judge for the District of New Jersey.

Jose L. Linares, of New Jersey, to be United States District Judge for the District of New Jersey.

Freda L. Wolfson, of New Jersey, to be United States District Judge for the District of New Jersey.

Pages S 11031-32, D 1151-52, (Cont. next issue)

Committee Meetings:

Committee on the Judiciary: Committee ordered favorably reported the following business items: *The nominations of Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit, and Kevin J. O'Connor, to be United States Attorney for the District of Connecticut; S. 2480, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns, with amendments; S. 2541, to amend title 18, United States Code, to establish penalties for aggravated identify theft; S. 2520, to amend title 18, United States Code, with respect to the sexual exploitation of children, with an amendment in the nature of a substitute.*

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information held hearings to examine the current state of national preparedness against terrorism, focusing on the October 2002 Hart-Rudman Terrorism Task Force Report.

Page D 1153

HOUSE

Reports Filed:

Reports were filed today as follows:

H.R. 2458, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet- based information technology to enhance citizen access to Government information and services, amended (House Report 107-787, part 1);

Report of the Joint Economic Committee on the 2002 Economic Report of the President (House Report 107-788); and

Conference report on H.R. 4628, a bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (House Report 107-789).

Pages H 8764-84, D 1154

See Pages H 8770-1: TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES. SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE

“(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

“(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.

“(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

“(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

Reports Filed (Cont’d.):

Conference report on H.R. 4628 (Cont’d.):

“(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

“(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

H.R. 5708. Reduction of Preexisting PAGO Balances:

The House passed H.R. 5708, to reduce preexisting PAGO balances by recorded vote by 366 ayes to 19 noes, Roll No. 482.

Page D 1154, (See next issue)

Rejected the Moore motion to recommit the bill to the Committee on the Budget with instructions to report it back to the House forthwith with an amendment that reduces balances in fiscal years 2002 and 2003 and further reduces all balances in succeeding fiscal years if the President submits a budget that projects an on-budget balance or an on- budget surplus by fiscal year 2008 by recorded vote of 187 ayes to 201 noes, Roll No. 481.

Page D 1154, (See next issue)

H. Res. 602, the rule that provided for consideration of the bill was agreed to on Nov. 13.

Page D 1154, (See next issue)

H.R. 3210. Terrorism Risk Insurance Act:

The House agreed to the conference report to accompany H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Pages H 8738-41, D 1154

“... What is proposed here today is that, in the event of a large-scale terrorist attack upon this country in any location, one Federal court, one jurisdiction will take control and be charged with the administration of handling all the claims as a result of that attack, instead of having State and Federal courts all over the United States handling thousands of claims. Instead of that situation, which I think we all agree would be unmanageable, one Federal court picked for the convenience of those who had been hurt by this terrorist attack and picked for the efficient handling of the claims would be picked within 90 days of the terrorist attack, a Federal cause of action. The lawsuits under this legislation would be tried in Federal court, Federal rules of procedure. However, the substantive law of the State or where the attack occurred would be the applicable law. [] All the legal reforms, as the gentleman from Ohio (Mr. Oxley) said, are an improvement over the current law. The Federal Government of the American taxpayers will not be forced to reinsure any punitive damage claims. Private rights of action for punitive damages are unchanged...”
(Bachus, page H 8740)

Earlier, agreed to H. Res. 607, the rule that waived points of order against the conference report by voice vote.

Page D 1154, (See next issue)

S. 1214. Port and Maritime Security Conference Report:

The House agreed to the conference report to accompany S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports--clearing the measure for the President.

Page D 1154, (See next issue)

Earlier, agreed to H. Res. 605, the rule that waived points of order against the conference report by voice vote.

Pages H 8737-8, D 1154

H.R. 4628. Intelligence Authorization Conference Report:

The House agreed to the conference report to accompany H.R. 4628, a bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence- related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, by a yea-and-nay vote of 366 yeas to 3 nays, Roll No. 483.

Page D 1155, (See next issue)

The conference report was considered by unanimous consent.

Page D 1155, (See next issue)

Point of Order Sustained Against H.R. 333, Bankruptcy Conference Report:

The Chair sustained the Blunt point of order under clause 9 of rule 22 that the conference report to accompany H.R. 333, to amend title 11, United States Code, included matter outside the scope of the differences between the two Houses that were committed to the conference committee for resolution. Representative Blunt specifically cited section 331 of the conference report, which was described in the joint explanatory statement of the managers as having no counterpart in either the House bill or Senate amendment.

Page D 1155, (See next issue)

Earlier, the House failed to agree to H. Res. 606, the rule that sought to waive points of order against the conference report to accompany H.R. 333, and against its consideration, by a yea-and-nay vote of 172 yeas to 243 nays, Roll No. 478.

Pages H 8742-57, D 1155

"... The issue of bankruptcy reform has been a heated topic of debate in this body since the first session of the 105th Congress, when shortly before the National Bankruptcy Review Commission issued its report recommending changes to the current bankruptcy laws; legislation was introduced to dramatically change the way in which consumer bankruptcies are administered under the U.S. Code, 11 U.S.C. sec. 101 et seq. We have battled with this issue until now and we see that the leadership of the House, with a renewed vigor, will force a vote on legislation for some of its favorite companies before the irons of the last election have even cooled and a day before we adjourn for the year. Mr. and Ms. America, today is a preview of things to come. Today is the beginning of a time when corporate interests, in this case the interests of large creditors, will reign supreme and the interests of the little guy will slip further down to the bottom of the barrel..." (Jackson-Lee, page H 8749)

H.R. 333, Bankruptcy Reform:

The House agreed to the Senate amendment to H.R. 333, to amend title 11, United States Code, with an amendment by a recorded vote of 244 yes to 116 noes, Roll No. 484. Earlier, Representative Gekas moved that the House recede from disagreement to the Senate amendment to the bill, and concur therein with an amendment that, in lieu of the matter proposed to be inserted by the Senate amendment, inserts the matter after the enacting clause in H.R. 5745, to amend title 11 of the United States Code, as

introduced on November 14, 2002.

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Consideration of Compound Request:

The Chair announced that he would entertain the following compound request under the Speaker's Guidelines as recorded on page 712 of the House Rules and Manual with assurances that it has been cleared by the bipartisan floor and committee leadership. It was then agreed by unanimous consent that the House be considered to have:

- Taken from the Speaker's table and passed **S. 3044**, a bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release, *clearing the measure for the President*;
- Taken from the Speaker's table and concurred in the respective Senate amendments to **H.R. 2621**, *to amend title 18, United States Code*, with respect to consumer product protection; **H.R. 3609**, to amend title 49, United States Code, *to enhance the security and safety of pipelines*; **H.R. 5469**, to amend title 17, United States Code, *with respect to the statutory license* for webcasting; and **H.R. 3833**, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes--*clearing the measures for the President*;
- That the committees being discharged be printed in the Record, the texts of each measure and any amendment thereto be considered as read and printed in the Record, and that motions to reconsider each of these actions be laid upon the table. Further the Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bills.

Page D 1156

Committee to Notify the President:

The House agreed to H. Res. 615, providing for a committee of two members to be appointed by the House to inform the President. Subsequently the Chair appointed Representatives Armey and Gephardt to the Committee.

Page D 1156, (See next issue)

Resignations--Appointments:

Agreed that notwithstanding the adjournment of the Second Session of the One Hundred Seventh Congress, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

Page D 1156, (See next issue)

S.J. Res. 53, Convening of the First Session of the One Hundred Eighth Congress:

The House passed S.J. Res. 53, relative to the convening of the first session of the One Hundred Eighth Congress at noon on Tuesday, January 7, 2003.

Page D 1156, (See next issue)

Referrals:

S. 2845, a bill to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on

September 11, 2001 was referred to the Committee on the Judiciary; **S. 3067, a bill to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes was referred to the Committee on Government Reform; S. 1742, A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes was referred to the Committees on the Judiciary and financial Services; S. 3044, a bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release; S. 2520, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children, were held at the desk.**

Pages D 1156-7, (See next issue)

Committee Meeting:

Committee on Armed Services: Subcommittee on Military Procurement, hearing on the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction pending the release of its fourth report. Testimony was heard from James Gilmore, Chairman, Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction.

Page D 1157

Remarks:

In Opposition To **H.R. 2155**, Sober Borders Act.

McCullum

Page E 2017

Homeland Security Act Of 2002.

"... Another shortcoming of the bill is that it exempts manufacturers of anti-terrorism technology from liability. Proponents of this provision say it will make America safer. I say it only rewards corporate irresponsibility--a policy that our President and the loyal opposition seems to embrace..."

Kilpatrick

Page E 2027

Homeland Security Act Of 2002.

Oritz

Page E 2029

Souder

Page E 2032

Paul

Page E 2041

The Continuity Of Congress Working Group.

Cox

Pages E 2031-2

Remarks (Cont'd.):

Introduction Of The Immigration Bond Fairness Act Of 2002.

"...I am introducing the Immigration Bond Fairness Act of 2002, a bill to amend the Immigration and Nationality Act to provide for judicial review of detention and release determinations, and to provide a right to a bond hearing before an immigration judge to all aliens in removal and summary removal proceedings. This bill would end the INS practice of indefinite detention of Haitians, even those seeking asylum, a racially discriminatory practice designed to send Haitian asylum seekers back home, regardless of the risk of persecution. It would ensure that every person in removal or summary removal proceedings would have a right to have custody, detention, and release determinations affecting them reviewed by an Immigration Judge..."

Women's Equality Amendment.

"...Yes, we have a patchwork and piecemeal set of legal protections that try to ensure equality under the law; the Equal Protection Clause, Title IX, the Equal Pay Act, the Pregnancy Discrimination Act. However, laws can be changed, repealed or swept away. It is a glaring gap in our body of laws that women do not enjoy the full force of constitutional protection. Gender must have the same level of judicial review as the other protections that combat the many forms of discrimination..."

Maloney

Pages E 2044-5

Next SENATE MEETING: Friday, 9:45 a.m., November 15, 2002.

Next HOUSE MEETING: Tuesday, 12:00 p.m., November 19, 2002.

OLA: S. Schwarz, A. Santos